

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO: 04-10101-LPC

UNITED STATE OF AMERICA,)
Plaintiff,)
v.)
KENNETH SMITH,)
Defendant.)
_____)

101-10101-LPC
10-5 P 12:15
DISTRICT COURT
DISTRICT OF MASS

AFFIDAVIT IN SUPPORT OF MOTION FOR CONTINUANCE

I, Peter M. Daigle, being duly sworn, depose and say:

1. Affiant is the attorney for Defendant, Kenneth E. Smith, and makes this affidavit in support of Defendant's Motion for a Continuance.
2. With the exception of brief interruption extending over a period of ten (10) days and totaling no more than two (2) weeks, affiant has been engaged since September 22, 2004 in the case of Spector v. T.R. White, Civil Action No. 98-0071A, Suffolk Superior Court. The case involves a dispute over contracts between the parties.
3. The length of that litigation has extended beyond any reasonable estimate made between the parties. The trial is still pending on the date of this motion and will continue for an unspecified length.
4. Affiant due to the complexity and length of trial has been unable to adequately prepare for the Defendant's sentencing hearing.

5. Affiant has represented the Defendant herein for a substantial period of time in several matters and the Defendant is firm in the desire that the affiant represent the Defendant as counsel at the sentencing hearing.

6. Defendant is facing severe punishment according to the Federal Sentencing Guidelines. If the Defendant is required to proceed with sentencing and his Motion for Downward Departure with counsel not of Defendant's choice, the Defendant may be sentenced to a year imprisonment in the absence of counsel of the Defendant's choosing, who will be available to represent Defendant if the requested continuance is granted.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 2
DAY OF OCTOBER, 2004.

A handwritten signature in black ink, appearing to read 'Peter M. Daigle', written over a horizontal line.

Peter M. Daigle, Esquire